

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLICATION NO. 10/510,919
ATTORNEY DOCKET NO. Q84140

REMARKS

Applicant thanks the Patent Office for acknowledging Applicant's claim to foreign priority, and for indicating that the certified copy of the priority document, Japanese Patent Application No. 2002-109391 dated April 11, 2002, Japanese Patent Application No. 2002-161332 dated June 3, 2002, and PCT application PCT/JP03/04488 dated April 9, 2003 has been made of record in the file.

Applicant thanks the Patent Office for initialing the references listed on the PTO/SB/08 A & B form submitted with the Information Disclosure Statement filed on October 12, 2004 and returning an initialed copy of the PTO/SB/08 A & B, thereby confirming that the listed references have been considered.

Claims 7 and 10-15 have been examined on their merits.

Applicant herein cancels claims 14, and adds new claims 16-19. The new claims read on the elected species, and do not add any new matter. Entry and consideration of the new claims 16-19 is respectfully requested.

Claims 7 and 10-13 and 15-19 are all the claims presently pending in the application.

1. The Patent Office objects to claims 13 and 14 under 37 C.F.R. § 1.75(c) as being of improper form. The objection to claim 14 is now moot due to its cancellation.

Applicant herein amends claim 13 to properly depend from either claim 10 or 11. Applicant submits that the objection to claim 13 has been overcome, and requests withdrawal of same.

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2. Claims 1, 13 and 15 stand rejected under 35 U.S.C. § 112 (2nd para.) as allegedly being indefinite. Applicant traverses the § 112 (2nd para.) rejection of claims 1, 13 and 15 for at least the reasons discussed below.

With respect to claims 1 and 15, Applicant has amended claims 1 and 15 to recite “arbitrary value” instead of “free arbitrary.”

With respect to claim 13, Applicant has amended claim 13 to recite “graphical user interface” instead of “GUI.” Applicant notes that the term “GUI” is well understood by those of ordinary skill in the computer arts, but Applicant is amending claim 13 to advance the prosecution of this application.

With respect to the term “immobilizer,” page 21 of the specification describes an immobilizer as a theft protection device which is used to invalidate the vehicle characteristic settings. The Patent Office is required to provide reasons why one of skill in the art would not understand what the term “immobilizer” means after reading the specification. Applicant is not required to provide definitions in the claims, especially when a perfectly acceptable definition of the term “immobilizer” is present in the specification.

Based on the foregoing reasons, Applicant submits that the § 112 (2nd para.) rejection of claims 1, 13 and 15 has been overcome.

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3. Claims 7, 10-12 and 15 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Omura *et al.* (JP06-342302). Applicant traverses the § 102(b) rejection of claims 7, 10-12 and 15, and insofar as the rejection might apply to new claims 16-19, for at least the reasons discussed below.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

Omura *et al.* disclose, *inter alia*, the changing of the control gain, while the control characteristic claimed in the present invention can be freely set. That is, the control gain of Omura *et al.* means a coefficient for determining a control characteristic. Therefore, in Omura *et al.*, changing the control gain means to change the changing rate of a predetermined control characteristic uniformly and as a whole, while in the present invention, the control characteristic can be set via a graphical user interface (GUI). In the present invention, the user of the GUI can freely set the control characteristic within a predetermined permitted area.

Omura *et al.* fail to teach or suggest at least several features of the present invention recited in claim 7. First, the Patent Office has failed to point out where Omura *et al.* teach or suggest the ability to set a particular vehicle characteristic (*e.g.*, steering characteristics,

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transmission characteristics, etc.) to an arbitrary value. While the Patent Office did reject claim 7 under 35 U.S.C. § 112 (2nd para.) as being indefinite, it would have been fairly obvious to one of ordinary skill in the art that “free arbitrary” referred to an arbitrary value that was not present by the factory. *See, e.g.*, page 2, lines 9-20; page 7, lines 1-10; page 20, line 26 to page 21, line 6; page 21, lines 20-27. There is no teaching or suggestion in Omura *et al.* that arbitrary values, other than factory preset values, can be used when adjusting the vehicle characteristic parameters. Second, the Patent Office alleges that paragraphs [0079-0082] of Omura *et al.* disclose determining whether or not a particular vehicle characteristic is valid, and if not, using a default characteristic value. Paragraph [0079] of Omura *et al.* discloses, *inter alia*, backing up of the RAM (23) for storage maintenance of owner data. Paragraph [0080] discloses, *inter alia*, setting characteristics for several drivers. Paragraph [0081] of discloses, *inter alia*, changing a vehicles characteristics according to particular situations. Paragraph [0082] discloses, *inter alia*, writing owner data stored in the RAM (23) to an IC card (40). However, none of the above cited paragraphs teaches or suggests determining whether or not a particular vehicle characteristic is valid, and if not, using a default characteristic value, as recited in claim 7. The design of the device disclosed by Omura *et al.* is such that, since the user cannot exceed certain range values, there is no need for determining if a value is invalid, and substituting therefore a default value.

Based on the foregoing reasons, Applicant submits that claim 7 is allowable over Omura *et al.*, and further submits that new claims 16-19 are allowable as well, at least by virtue of their dependency from claim 7. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claim 7.

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With respect to independent claim 10, Applicant submits that claim 10 is allowable over Omura *et al.* for at least reasons analogous to those discussed above with respect to claim 7, and further submits that claims 10-13 are allowable as well, at least by virtue of their dependency from claim 10. Applicant respectfully requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claims 10-12.

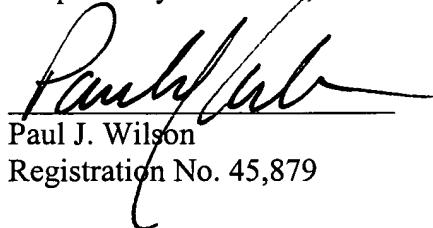
With respect to claim 15, the Patent Office has not proffered any arguments as to why claim 15 is not allowable over Omura *et al.* Specifically, the Patent Office has not shown where there is any teaching or suggestion in Omura *et al.* of an anti-theft device that selects vehicle characteristics. Applicant submits that claim 15 is allowable over Omura *et al.* for at least reasons analogous to those discussed above with respect to claim 7, and respectfully requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claim 15.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Paul J. Wilson
Registration No. 45,879

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
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AMENDMENTS TO THE DRAWINGS

The Patent Office objects to the Drawings as failing to comply with 37 C.F.R. § 1.84(p)(5). Applicant herein amends Figures 4, 5, 6, 8, 9, 10 and 16 to overcome the § 1.84(p)(5) objection, and no new matter has been added. Applicant submits that the § 1.84(p)(5) objection has been overcome, and respectfully requests withdrawal of same.

Attachment: Eighteen (18) Replacement Sheets